

**Senate File 2343 - Introduced**

SENATE FILE 2343  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3147)

**A BILL FOR**

1 An Act relating to the appointment of judicial officers and  
2 senior judges.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 602.2301 **Judicial officer**  
2 **appointment — delay.**

3 1. Notwithstanding section 46.12, the chief justice  
4 may order the state commissioner of elections to delay, for  
5 budgetary reasons, the sending of a notification to the proper  
6 judicial nominating commission that a vacancy in the supreme  
7 court, court of appeals, or district court has occurred or will  
8 occur.

9 2. Notwithstanding sections 602.6304, 602.7103B, and  
10 633.20B, the chief justice may order any county magistrate  
11 appointing commission to delay, for budgetary reasons,  
12 publicizing the notice of a vacancy for a district associate  
13 judgeship, associate juvenile judgeship, or associate probate  
14 judgeship.

15 3. Notwithstanding section 602.6403, subsection 3, if a  
16 magistrate position is vacant due to a death, resignation,  
17 retirement, an increase in the number of positions authorized,  
18 or to the removal of a magistrate, the chief justice may order  
19 any county magistrate appointing commission to delay, for  
20 budgetary reasons, the appointment of a magistrate to serve the  
21 remainder of an unexpired term.

22 Sec. 2. NEW SECTION. 602.6113 **Apportionment of certain**  
23 **judicial officers — substantial disparity.**

24 Notwithstanding section 602.6201, 602.6301, 602.6304,  
25 602.7103B, or 633.20B, if a vacancy occurs in the office of a  
26 district judge, district associate judge, associate juvenile  
27 judge, or associate probate judge, and the chief justice of  
28 the supreme court makes a finding that a substantial disparity  
29 exists in the allocation of such judgeships and judicial  
30 workload between judicial election districts, the chief  
31 justice may apportion the vacant office from the judicial  
32 election district where the vacancy occurs to another judicial  
33 election district based upon the substantial disparity finding.  
34 However, such a judgeship shall not be apportioned pursuant  
35 to this section unless a majority of the judicial council

1 approves the apportionment. This section does not apply to a  
2 district associate judge office authorized by section 602.6302  
3 or 602.6307.

4 Sec. 3. Section 602.6305, subsections 2 and 3, Code 2009,  
5 are amended to read as follows:

6 2. A person does not qualify for appointment to the office  
7 of district associate judge unless the person is at the time  
8 of appointment a resident of the ~~county~~ judicial election  
9 district in which the vacancy exists, licensed to practice law  
10 in Iowa, and will be able, measured by the person's age at the  
11 time of appointment, to complete the initial term of office  
12 prior to reaching age seventy-two. An applicant for district  
13 associate judge shall file a certified application form, to  
14 be provided by the supreme court, with the chairperson of the  
15 county magistrate appointing commission.

16 3. A district associate judge must be a resident of a  
17 ~~county~~ the judicial election district in which the office is  
18 held during the entire term of office. A district associate  
19 judge shall serve within the judicial district in which  
20 appointed, as directed by the chief judge, and is subject to  
21 reassignment under section 602.6108.

22 Sec. 4. Section 602.6404, subsection 1, Code Supplement  
23 2009, is amended to read as follows:

24 1. A magistrate shall be a resident of the county of  
25 appointment or a resident of a county contiguous to the  
26 county of appointment during the magistrate's term of office.  
27 However, a resident of the county of appointment shall be  
28 the preferred applicant for appointment over a resident of a  
29 county contiguous to the county of appointment. A magistrate  
30 shall serve within the judicial district in which appointed,  
31 as directed by the chief judge, provided that the chief  
32 judge may assign a magistrate to hold court outside of the  
33 county of ~~the magistrate's residence~~ appointment for the  
34 orderly administration of justice. A magistrate is subject to  
35 reassignment under section 602.6108.



1 magistrate to serve the remainder of an unexpired term, if the  
2 vacancy is due to a death, resignation, retirement, an increase  
3 in the number of positions authorized, or to the removal of a  
4 magistrate. New Code section 602.2301 does not grant authority  
5 to the chief justice to delay the appointment of magistrates  
6 when all magistrates' terms expire pursuant to Code section  
7 602.6403(1). The provision granting this authority to the  
8 chief justice to delay the appointment of a judicial officer is  
9 repealed on July 1, 2013. Currently, the chief justice has the  
10 authority, until June 30, 2010, to delay for budgetary reasons,  
11 the nomination of any judicial officer, except magistrates, for  
12 up to 180 days.

13 The bill creates new Code section 602.6113 authorizing  
14 the chief justice to apportion a vacancy in the office of  
15 district judge, district associate judge, associate juvenile  
16 judge, or associate probate judge, from the judicial election  
17 district where the vacancy occurs to another judicial election  
18 district. An apportionment from one judicial election district  
19 to another judicial election district shall not occur under the  
20 bill, unless the chief justice finds a substantial disparity  
21 exists in the allocation of judgeships and judicial workload  
22 between judicial election districts, and the judicial council,  
23 by a majority vote, approves the apportionment. Current law  
24 does not permit the chief justice and the judicial council to  
25 apportion vacant judgeships across judicial election district  
26 boundaries. The provision granting the authority to apportion  
27 a judicial office vacancy is repealed on July 1, 2013.

28 The amendment to Code section 602.6305 requires a district  
29 associate judge to reside in the judicial election district  
30 at the time of appointment and throughout the entire term of  
31 office. Currently, a district associate judge is required to  
32 reside in the county where the vacancy exists at the time of  
33 appointment and throughout the entire term of office.

34 The amendment to Code section 602.6404(1) allows a  
35 magistrate to be a resident of a county contiguous to the

1 county of appointment during the magistrate's term of office.  
2 The bill specifies that a resident of the county of appointment  
3 shall be the preferred applicant over a resident of a county  
4 contiguous to the county of appointment. The bill also permits  
5 the chief judge to assign a magistrate to hold court outside  
6 of the magistrate's county of appointment for the orderly  
7 administration of justice.

8 The bill requires senior judge written application forms  
9 to be prescribed by the supreme court. Currently, the court  
10 administrator prescribes the forms.

11 The amendment to Code section 602.9203(5) specifies that  
12 a senior judge, upon attaining the age of 78, may serve  
13 a one-year term and one succeeding one-year term at the  
14 discretion of the supreme court. Currently, a senior judge,  
15 upon attaining the age of 78, may serve a two-year term at the  
16 discretion of the supreme court.